



U.S. Citizenship  
and Immigration  
Services

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FILE:



Office: VERMONT SERVICE CENTER

Date: OCT 2 2007

[EAC 06 307 74880]

IN RE:

Applicant:



APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT: SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a citizen of El Salvador who is seeking Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The director denied the application because the applicant failed to establish his eligibility for TPS late registration.

On appeal, the applicant provides a statement and supporting evidence in an attempt to establish his eligibility for TPS.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant who is a national of a foreign state designated by the Attorney General is eligible for TPS only if such alien establishes that he or she:

- (a) Is a national, as defined in section 101(a)(21) of the Act, of a foreign state designated under section 244(b) of the Act;
- (b) Has been continuously physically present in the United States since the effective date of the most recent designation of that foreign state;
- (c) Has continuously resided in the United States since such date as the Attorney General may designate;
- (d) Is admissible as an immigrant except as provided under section 244.3;
- (e) Is not ineligible under 8 C.F.R. § 244.4; and
- (f)
  - (1) Registers for TPS during the initial registration period announced by public notice in the FEDERAL REGISTER, or
  - (2) During any subsequent extension of such designation if at the time of the initial registration period:
    - (i) The applicant is a nonimmigrant or has been granted voluntary departure status or any relief from removal;
    - (ii) The applicant has an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal which is pending or subject to further review or appeal;
    - (iii) The applicant is a parolee or has a pending request for reparole; or

- (iv) The applicant is a spouse or child of an alien currently eligible to be a TPS registrant.
- (g) Has filed an application for late registration with the appropriate Service director within a 60-day period immediately following the expiration or termination of conditions described in paragraph (f)(2) of this section.

The phrase *continuously physically present*, as defined in 8 C.F.R. § 244.1, means actual physical presence in the United States for the entire period specified in the regulations. An alien shall not be considered to have failed to maintain continuous physical presence in the United States by virtue of brief, casual, and innocent absences as defined within this section.

The phrase *continuously resided*, as defined in 8 C.F.R. § 244.1, means residing in the United States for the entire period specified in the regulations. An alien shall not be considered to have failed to maintain continuous residence in the United States by reason of a brief, casual and innocent absence as defined within this section or due merely to a brief temporary trip abroad required by emergency or extenuating circumstances outside the control of the alien.

Persons applying for TPS offered to El Salvadorans must demonstrate continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001. On July 9, 2002, the Attorney General announced an extension of the TPS designation until September 9, 2003. Subsequent extensions of the TPS designation have been granted by the Secretary of the Department of Homeland Security, with validity until September 9, 2008, upon the applicant's re-registration during the requisite time period.

The initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed the current application with Citizenship and Immigration Services (CIS) on July 25, 2006.

To qualify for late registration, the applicant must provide evidence that during the initial registration period he or she fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above.

The burden of proof is upon the applicant to establish that he or she meets the above requirements. Applicants shall submit all documentation as required in the instructions or requested by CIS. 8 C.F.R. § 244.9(a). The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. To meet his or her burden of proof, the applicant must provide supporting documentary evidence of eligibility apart from his or her own statements. 8 C.F.R. § 244.9(b).

The record reflects that the applicant filed an application for TPS on May 7, 2001, under receipt number SRC 01 203 57099. That application was denied on February 6, 2003. The applicant did not file an appeal or motion during the requisite time period. The applicant filed the current application on July 25, 2006.

On December 27, 2006, the director requested the applicant to submit evidence to establish his eligibility for TPS late registration. The director also requested the applicant to submit evidence to establish his continuous residence since February 13, 2001, and his continuous physical presence in the United States since March 9, 2001. In addition, the applicant was requested to submit evidence to establish his identity, such as a passport or his national identity document.

The director denied the application on April 27, 2007, because the applicant failed to establish his eligibility for TPS late registration. The director also noted in his decision that the applicant's previously filed TPS application was denied.

On appeal, the applicant states that he was in a valid non-immigrant status. The applicant also submits copies of the following documentation: CIS receipt notices dated June 21, 2001, and November 2, 2002; his previously filed TPS applications dated May 7, 2001, and September 26, 2002; a money order dated August 23, 2003; his El Salvadoran personal identification and voter's registration cards; his El Salvadoran birth certification with an English translation; the birth certificates of children born in the United States on July 27, 2003, and March 19, 2006; an employment letter dated January 5, 2007, from [REDACTED] Human Resources Manager of George's Processing Incorporated, stating that the applicant has been employed since October 15, 2001; his Internal Revenue Service (IRS) U.S. Individual Income Tax Returns and Forms W-2, Wage and Tax Statements, for the years 2001 to 2005; an affidavit of witness from an acquaintance dated February 20, 2003; a letter dated January 25, 2003, from [REDACTED], Manager of Castle Rental Center; a letter from [REDACTED] indicating the applicant used their services on January 2, 2001, October 14, 2001, and September 16, 2002; his Arkansas Drivers Licenses issued on October 4, 2002, and March 31, 2006; an Acknowledgment of Paternity; a letter from [REDACTED] stating the applicant lived with him since July 1999; a bank letter from [REDACTED] stating the applicant opened an account on March 8, 2004; and two of his Employment Authorization Documents (EADs).

A review of the record reflects that the applicant has not submitted any evidence to establish that he has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Consequently, the director's conclusion that the applicant had failed to establish his eligibility for late registration will be affirmed.

An alien applying for TPS has the burden of proving that he or she meets the requirements enumerated above and is otherwise eligible under the provisions of section 244 of the Act. The applicant has failed to meet this burden.

**ORDER:** The appeal is dismissed.